

MOTOR VEHICLE FEE EQUITY

Prior Law

Motor vehicles owned by non-residents but operated within Iowa by an Iowa resident are subject to the annual registration fee and a fee for new registration. However, the fees are not required to be paid if the vehicle is operated within Iowa temporarily, for 90 days or less. It is unclear whether the phrase “vehicles operated by residents temporarily, not exceeding ninety days” required the vehicle to be operated on the roads of Iowa for 90 days and whether the vehicle had to be operated in Iowa for 90 consecutive days.

A person who willfully makes a false statement in regard to the purchase price of the vehicle subject to a fee for new registration is guilty of a fraudulent practice and is also subject to a penalty of 75 percent of the amount of the fee for new registration required to be paid. The 75 percent penalty and fraudulent practice charge was limited to cases in which the person made a false statement in regard to the purchase price; it did not, however, apply to situations in which a person willfully tried to evade the entire fee for new registration.

New Provisions

The new law was a response to individuals who created business entities in states, such as Montana, that do not impose sales or use tax or a fee for new registration (“non-tax state”) on the purchase of a motor vehicle, for the sole purpose of evading the Iowa fee for new registration or use tax. The business entity would purchase the vehicle and register it in the non-tax state. The individual who created the business entity would drive the vehicle primarily in Iowa with a non-tax state’s license plates.

The new law clarifies the meaning of the phrase “vehicles operated by residents temporarily, not exceeding ninety days,” creates two rebuttable presumptions, and creates penalties for willful attempts to evade payment of the fee for new registration.

Clarification of 90-day Operation

The new law clarifies the prior law by explicitly providing that a vehicle is not operated in Iowa temporarily, and is therefore subject to registration and the owner is required to pay the fees for registration, if the vehicle is located within Iowa for more than 90 consecutive or non-consecutive days and is operated upon an Iowa highway by an Iowa resident during the time the vehicle is located within Iowa.

Prior to the new law, it was difficult to prove that a vehicle was operated within Iowa for greater than 90 days. Therefore, the 90-day temporary period of operation does not apply to a vehicle owned by a shell business. The new law provides non-exclusive factors that indicate a business is a shell which includes, but is not limited to, a lack of specific business activity or purpose or failure to maintain a physical location in the state in which the business is registered.

Rebuttable Presumptions

An Iowa resident who is found to be in control of a vehicle which is owned by a shell business and for which the fee for new registration has not been paid is guilty of a fraudulent practice and shall also be assessed a penalty of 75 percent of the amount of the fee for new registration required to be paid.

If the Department determines that the non-resident owner of the vehicle is a shell business, it is rebuttably presumed that:

- (1) the Iowa resident in control of the vehicle is the actual owner of the vehicle;
- (2) the vehicle is subject to Iowa registration; and
- (3) the payment of the fee for new registration is owed by the Iowa resident.

The new law provides non-exclusive factors that indicate a person is in control of the vehicle.

Willful Attempt to Evade the Fee for New Registration

In addition to a person who willfully makes a false statement in regard to the purchase price of the vehicle subject to a fee for new registration, a person who willfully attempts in any manner to evade payment of the fee for new registration is also guilty of a fraudulent practice and will be assessed a penalty of 75 percent of the amount of the fee for new registration required to be paid.

Sections Amended_____

Section 160 of 2013 Iowa Acts Senate File 452 amends Code section 321.55, Code 2013. Section 161 amends Code section 321.105A, Code 2013.

Effective Date_____

July 1, 2013.